

# Calendar No. 1054

91ST CONGRESS }  
2d Session }

SENATE

{ REPORT  
No. 91-1049

JOHN T. ANDERSON

JULY 30, 1970.—Ordered to be printed

Mr. BURDICK, from the Committee on the Judiciary, submitted the following

## REPORT

[To accompany H.R. 2241]

The Committee on the Judiciary, to which was referred the bill (H.R. 2241) for the relief of John T. Anderson, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

### PURPOSE

The purpose of the proposed legislation is to pay John T. Anderson, of Morris Plains, N.J., \$137.50 in settlement of his claim for the cost of shipping his automobile from Germany to the United States in connection with his separation from the Department of the Air Force and return to this country.

### STATEMENT

The Department of the Air Force in its report to the House Judiciary Committee on the bill indicates that it has no objection to its enactment.

John T. Anderson was an employee of the U.S. Air Force at Lindsey Air Station, Wiesbaden, Germany, who was released from this assignment by orders dated February 15, 1962, and was authorized to travel to Washington, D.C., for further employment with the Department of Agriculture. In connection with this authorization, he was further authorized transportation of his 1961 Volkswagen automobile on Government facilities on a space-required nonreimbursable basis.

On March 7, 1962, Mr. Anderson presented his travel authorization to an officer of the U.S. Army Transportation Corps as evidence of his

entitlement to transportation of his automobile to the United States. The Army Transportation Corps official erroneously determined that Mr. Anderson was not entitled to transportation of his automobile via a Government vessel and refused to accept it for shipment to the United States, citing paragraph 5802 of Air Force Manual 75-4, which prohibits the shipment via Government facilities of a foreign-made vehicle purchased overseas on or after March 7, 1961. The records show that the contract order for the vehicle was dated February 28, 1961, and that Mr. Anderson was entitled to shipment of the vehicle under the exception stated in subsection b(1) of paragraph 5802. That subsection provides that the restrictions of paragraph 5802a are not applicable when the title to the vehicle is transferred between eligible Department of Defense personnel and the chain of ownership immediately before and after March 6, 1961, includes only eligible personnel.

Since the Army Transportation Corps refused to accept the automobile for shipment to the United States, Mr. Anderson employed a local freight forwarding firm in Bremerhaven to arrange for the shipment of his automobile to Baltimore at his own expense.

Mr. Anderson requested the General Accounting Office to review his claim for reimbursement of the cost incurred in shipping his automobile from Bremerhaven, Germany, to Baltimore, Md. The Assistant Comptroller General of the United States disallowed his claim in a letter dated January 14, 1965, and sustained the action in a letter dated November 7, 1966. In his letter dated November 7, 1966 (B-160229), the Assistant Comptroller General ruled as follows:

Our settlement of January 14, 1965, disallowed your claim for reimbursement for the reason that the shipment of your automobile from Bremerhaven to Baltimore was accomplished by means of a foreign-flag vessel in contravention of section 901 of the Merchant Marine Act of 1936, as amended, 46 U.S.C. 1241 (2), which provides: "Any officer or employee of the United States traveling on official business overseas or to or from any of the possessions of the United States shall travel and transport his personal effects on ships registered under the laws of the United States where such ships are available unless the necessity of his mission requires the use of a ship under a foreign flag: *Provided*, That the Comptroller General of the United States shall not credit any allowance for travel or shipping expenses incurred on a foreign ship in the absence of satisfactory proof of the necessity therefor."

The committee notes that Mr. Anderson's appeal to the General Accounting Office was rejected because of a determination that regardless of error on the part of military personnel the foregoing law would bar payment. As stated in the Air Force report, the Assistant Comptroller General phrases this position in this manner:

While the record does show that an error was committed by a representative of the Government in this case, such fact has no material bearing on the legal issue involved. The financial liability for use of a foreign-flag vessel by an

employee in the absence of a need for such use is placed by law upon the employee, and even if the Government's representatives are shown to have acted erroneously in the matter, there exists no legal basis for granting relief to the employee.

Mr. Anderson has exhausted all administrative remedies and there is no legal authority to reimburse him for the costs incurred in shipping his automobile from Bremerhaven, Germany, to Baltimore, Md.

The Department of the Air Force has stated that it has no objection to enactment of H.R. 2241, based on evidence showing that Mr. Anderson had entitlement to transportation of his automobile to the United States. The vehicle was acquired before March 6, 1961, and was eligible for shipment at Government expense. Further, the vehicle would have been shipped via Government facilities if the transportation officer had not acted erroneously in denying authorization of the shipment.

Clearly, Mr. Anderson was unfairly denied the shipment of his automobile and forced to expend the sum stated in this bill by reason of the actions and errors of Government personnel. Accordingly, it is recommended that the bill be considered favorably.

Attached hereto and made a part hereof is a letter dated September 29, 1969, from the Department of the Air Force.

DEPARTMENT OF THE AIR FORCE,  
OFFICE OF THE SECRETARY,  
*Washington, D.C., September 29, 1969.*

HON. EMANUEL CELLER,  
*Chairman, Committee on the Judiciary,  
House of Representatives.*

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Department of the Air Force with respect to H.R. 2241, 91st Congress, a bill for the relief of John T. Anderson.

The purpose of H.R. 2241 is to authorize the Secretary of the Treasury to pay to John T. Anderson, of Morris Plains, N.J., the sum of \$137.50 in full settlement of his claim against the United States for the cost of shipping his automobile from Bremerhaven, Germany, to Baltimore, Md., incident to his separation from the Department of the Air Force in 1962.

By Special Order AB 41 dated February 15, 1962, Mr. Anderson was released from his assignment with the Department of the Air Force at Lindsey Air Station, Wiesbaden, Germany, and authorized to travel to Washington, D.C., for further employment with the Department of Agriculture. He was also authorized transportation of his 1961 Volkswagen automobile via Government facilities on a space-required nonreimbursable basis.

On March 7, 1962, Mr. Anderson presented his travel authorization to an officer of the U.S. Army Transportation Corps as evidence of his entitlement to transportation of his automobile to the United States. The Army Transportation Corps official erroneously determined that Mr. Anderson was not entitled to transportation of his automobile via a Government vessel and refused to accept it for shipment to the United States, citing paragraph 5802 of Air Force

Manual 75-4, which prohibits the shipment via Government facilities of a foreign-made vehicle purchased overseas on or after March 7, 1961. (The record shows that the contract order for the vehicle was dated February 28, 1961, and that Mr. Anderson was entitled to shipment of the vehicle under the exception stated in subsection (b)1 of paragraph 5802. That subsection provides that the restrictions of paragraph 5802a are not applicable when the title to the vehicle is transferred between eligible Department of Defense personnel and the chain of ownership immediately before and after March 6, 1961, includes only eligible personnel.)

Since the Army Transportation Corps refused to accept the automobile for shipment to the United States, Mr. Anderson employed a local freight forwarding firm in Bremerhaven to arrange for the shipment of his automobile to Baltimore at his own expense.

Mr. Anderson requested the General Accounting Office to review his claim for reimbursement of the cost incurred in shipping his automobile from Bremerhaven, Germany, to Baltimore, Md. The Assistant Comptroller General of the United States disallowed his claim in a letter dated January 14, 1965, and sustained the action in a letter dated November 7, 1966. In his letter dated November 7, 1966 (B-160229), the Assistant Comptroller General ruled as follows:

"Our settlement of January 14, 1965, disallowed your claim for reimbursement for the reason that the shipment of your automobile from Bremerhaven to Baltimore was accomplished by means of a foreign-flag vessel in contravention of section 901 of the Merchant Marine Act of 1936, as amended, 46 U.S.C. 1241(2), which provides: "Any officer or employee of the United States traveling on official business overseas or to or from any of the possessions of the United States shall travel and transport his personal effects on ships registered under the laws of the United States where such ships are available unless the necessity of his mission requires the use of a ship under a foreign flag: *Provided*, That the Comptroller General of the United States shall not credit any allowance for travel or shipping expenses incurred on a foreign ship in the absence of satisfactory proof of the necessity therefor.'"

The Assistant Comptroller General noted the erroneous determination made by the Army Transportation Corps in refusing to accept shipment of Mr. Anderson's automobile. In his letter to Mr. Anderson, he stated:

"While the record does show that an error was committed by a representative of the Government in this case, such fact has no material bearing on the legal issue involved. The financial liability for use of a foreign-flag vessel by an employee in the absence of a need for such use is placed by law upon the employee, and even if the Government's representatives are shown to have acted erroneously in the matter, there exists no legal basis for granting relief to the employee."

Mr. Anderson has exhausted all administrative remedies and there is no legal authority to reimburse him for the costs incurred in shipping his automobile from Bremerhaven, Germany, to Baltimore, Md.

The Department of the Air Force has no objection to enactment of H.R. 2241, based on evidence showing that Mr. Anderson had entitle-



ment to transportation of his automobile to the United States. The vehicle was acquired before March 6, 1961, and was eligible for shipment at Government expense. Further, the vehicle would have been shipped via Government facilities if the transportation officer had not acted erroneously in denying authorization of the shipment.

The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the submission of this report for the consideration of the committee.

Sincerely,

CURTIS W. TARR,  
*Assistant Secretary of the Air Force*  
*(Manpower and Reserve Affairs.)*

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